

Senate Daily Reader

Tuesday, February 21, 2012

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State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

400T0356

SENATE STATE AFFAIRS ENGROSSED NO. **HB 1046** - 2/15/2012

Introduced by: The Committee on Judiciary at the request of the Department of the Military

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding child custody during
2 a soldier's deployment.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 33-6-10 be amended to read as follows:

5 33-6-10. A ~~member of the armed forces of the United States, including a member of the~~
6 ~~reserve component of the armed forces of the United States called into active service of the~~
7 ~~armed forces, and~~ servicemember ordered to deployment, who is the physical custodian or
8 guardian of a minor or incapacitated person, may delegate by a properly executed power of
9 attorney to another person for a period of one year or less any of the powers regarding care and
10 custody of the minor child or ward, except the power to consent to marriage or adoption of a
11 minor ward. If the ~~custodian or guardian is serving on active duty with the armed forces of the~~
12 ~~United States, and a power of attorney properly executed by such person~~ lapses prior to the
13 servicemember's release of ~~such custodian or guardian~~ from active duty, the power of attorney
14 shall be automatically extended for an additional year unless the ~~custodian or guardian~~
15 servicemember is sooner released from active duty. ~~The~~ Neither the execution of such a power



1 of attorney pursuant to this section ~~or upon activation of the service member into the armed~~
2 ~~forces of the United States does not constitute a material change in circumstances for an action~~
3 ~~seeking to change the custody of the affected child or children by the parent without physical~~
4 ~~custody, nor the deployment itself, may be considered a factor in considering a substantial and~~
5 ~~material change of circumstances, nor a factor in a best interest of the child determination for~~
6 ~~purposes of permanent child custody modification proceedings.~~ There is hereby imposed an
7 automatic stay of all proceedings seeking a permanent change in custody of a minor child where
8 the parent with physical custody is a ~~member of the active component or reserve component of~~
9 ~~the armed forces of the United States called into active service during a period of national~~
10 ~~emergency~~ servicemember called to active duty for deployment. Such stay shall continue for the
11 period of service ~~of the national emergency due to deployment~~, unless waived in writing by the
12 service member. Nothing in this section precludes a petition by the noncustodial parent to
13 temporarily change physical custody, the best interests of the child remains determinative for
14 such temporary custody determinations. ~~However, the best interests of the child shall be~~
15 ~~determinative~~ Any temporary order modifying physical custody of the child automatically
16 terminates upon return of the servicemember from deployment and reverts back to the custody
17 status or order in effect prior to the deployment. However, if upon return from the deployment
18 either the servicemember or child exhibits a substantial and material change in circumstances
19 which adversely affects the servicemember's ability to adequately care for the child, the best
20 interests of the child shall be determinative. The temporary custody provisions of § 25-4A-11
21 do not apply to the temporary custody provisions of this section.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

708T0307

HOUSE LOCAL GOVERNMENT ENGROSSED NO. **HB 1066** - 2/7/2012

Introduced by: Representatives Deelstra, Abdallah, Blake, Bolin, Conzet, Dennert, Elliott, Gibson, Gosch, Haggar, Hansen (Jon), Hickey, Hoffman, Hubbel, Hunt, Killer, Kirkeby, Liss, Lucas, Miller, Moser, Nelson (Stace), Scott, Sly, Solum, Street, Stricherz, Tornow, Vanneman, Wick, and Willadsen and Senators Hunhoff (Jean), Bradford, Brown, Buhl, Juhnke, Peters, Rave, Schlekeway, and Sutton

1 FOR AN ACT ENTITLED, An Act to allow for the cremation of deceased persons who are
2 indigent and the funeral expenses are the financial responsibility of the county.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 28-17-1 be amended to read as follows:

5 28-17-1. If any person ~~shall die~~ dies within any county, who ~~shall~~ does not have money or
6 means necessary to defray ~~his~~ the funeral expenses, and whose relatives or friends are unable
7 or unwilling to defray the ~~same, it shall be the duty of~~ expenses, the county commissioners to
8 shall employ a ~~person~~ funeral director to provide for and superintend the burial or cremation of
9 ~~such~~ the deceased person.

10 Section 2. That § 28-17-2 be amended to read as follows:

11 28-17-2. ~~Whenever~~ If any person who is destitute and has no estate ~~shall die~~ dies within the
12 state, and who has no one legally bound for funeral expenses, and where there is no other source



1 to pay the cost of burial or cremation expense, the funeral expenses shall ~~then~~ be borne by the
2 county in which the deceased was a resident at time of death, ~~and if~~. If no residence can be
3 ~~fixed, then determined for the deceased person, the funeral expenses shall be borne~~ by the
4 county in which death occurred.

5 Section 3. That § 28-17-3 be amended to read as follows:

6 28-17-3. The selection of a funeral director ~~shall~~ may be made by the next of kin, if any,
7 otherwise by the ~~county commissioner in whose district death occurred~~ board of county
8 commissioners. The determination whether the decedent is buried or cremated may be made by
9 the next of kin, if any, otherwise by the board of county commissioners. In no case ~~shall~~ may
10 the county commissioners advertise for bids on burial or cremation of indigent poor.

11 Section 4. That § 28-17-4 be amended to read as follows:

12 28-17-4. On county burials, the funeral director in charge shall furnish a casket and outside
13 container and conduct the funeral services ~~in customary form, and the~~. On county cremations,
14 the funeral director in charge shall furnish an urn or container and conduct the funeral services.
15 The county shall allow the funeral director for merchandise and ~~such~~ services rendered, a sum
16 to be established by resolution of the board of county commissioners ~~in such county at their~~ at
17 the annual organizational meeting.

18 Section 5. That § 28-17-5 be amended to read as follows:

19 28-17-5. In addition to the burial and cremation expenses provided in § 28-17-4, the county
20 commissioners may contract with cemeteries within the state for burial space in a cemetery and
21 the opening and closing of the grave.

22 Section 6. That § 28-17-6 be amended to read as follows:

23 28-17-6. The necessary and reasonable expenses of burial or cremation under this chapter
24 shall be paid by the county treasurer, upon the order of ~~such~~ the commissioners; ~~and if~~. If the

1 decedent ~~shall have~~ had an established residency according to § 28-13-3 in a county in this state
2 different from that in which ~~he~~ the decedent died, the county paying ~~such~~ the funeral expenses
3 shall be reimbursed by the county in which the decedent had an established residency. ~~When the~~
4 ~~person so dying shall be~~ If the decedent was an honorably discharged United States soldier,
5 sailor, marine, or aviator, the funeral shall be conducted and expenses paid as provided in
6 chapter 33A-5.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

771T0022

HOUSE LOCAL GOVERNMENT ENGROSSED NO. **HB 1088** - 1/26/2012

Introduced by: Representatives Street, Bolin, Deelstra, and Rausch and Senators Krebs, Frerichs, and Nelson (Tom)

1 FOR AN ACT ENTITLED, An Act to revise certain requirements for charging and collecting
2 certain fees for confining certain people in the county jail.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 24-11-8 be amended to read as follows:

5 24-11-8. If any person is confined in any county jail by authority of the United States or of
6 any state or territory other than this state or any county other than the county in which ~~such~~ the
7 county jail is located, the sheriff, ~~jailer~~, or other person in charge of the jail, ~~shall~~ may charge
8 and collect, ~~in a sum fixed by the county in~~ addition to the charges allowed by law for ~~persons~~
9 any person confined by authority of ~~his own~~ the county, a sum necessary to fully compensate
10 and reimburse the county for money actually and necessarily expended for ~~fuel, light, utilities~~
11 and other expenses in the keeping of ~~such~~ the person, including the expense of building
12 depreciation, administration, and a reasonable charge for obsolescence of the facility and all
13 other tangible and intangible costs, to the county. The amount of the expense shall be fixed by
14 the board of county commissioners and collected by the sheriff or other person in charge of ~~such~~



- 1 the county jail in the manner and at the time other charges provided by law are ~~by him~~ collected.
- 2 Upon collection of the money, the ~~sheriff shall turn it over to the county treasurer of the county.~~
- 3 ~~The~~ money collected for building depreciation, and tangible and intangible costs ~~shall~~ may be
- 4 deposited into a special jail building fund. Moneys in the special jail building fund may only be
- 5 used to make capital improvements to the existing jail or for the building of a new jail.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

660T0103

SENATE LOCAL GOVERNMENT ENGROSSED NO. **HB 1131** - 2/15/2012

Introduced by: Representatives Tulson, Abdallah, Bolin, Brunner, Elliott, Hoffman, Jensen, Jones, Kirkeby, Magstadt, and Verchio and Senators Holien, Begalka, Heineman, Lederman, Novstrup (Al), Rampelberg, Rhoden, Schlekeway, Tieszen, and Vehle

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the posting of public
2 notice for meetings of public bodies.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 1-25-1.1 be amended to read as follows:

5 1-25-1.1. All public bodies shall provide public notice, with proposed agenda, ~~at least~~
6 ~~twenty-four hours prior to~~ that is visible, readable, and accessible for at least an entire twenty-
7 four hours before any meeting, by posting a copy of the notice, visible to the public, at the
8 principal office of the public body holding the meeting, ~~and, for.~~ The notice shall also be posted
9 on the public body's website upon dissemination of the notice, if such a website exists. For
10 special or rescheduled meetings, delivering, the information in the notice shall be delivered in
11 person, by mail, by email, or by telephone, the information in the notice to members of the local
12 news media who have requested notice. For special or rescheduled meetings, all public bodies
13 shall also comply with the public notice provisions of this section for regular meetings to the



1 extent that circumstances permit. A violation of this section is a Class 2 misdemeanor.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

965T0322

HOUSE EDUCATION ENGROSSED NO. **HB 1195** - 1/30/2012

Introduced by: Representatives Sly, Boomgarden, Brunner, Elliott, Fargen, Haggar, Moser, Nelson (Stace), Perry, and Tulson and Senators Brown, Bradford, Frerichs, Gray, Holien, Kraus, Maher, Olson (Russell), Rave, and Rhoden

1 FOR AN ACT ENTITLED, An Act to authorize the collection of fees for certain educational
2 programming and services, and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-8-50 be amended to read as follows:

5 13-8-50. The school board may provide programming before ~~and~~ or after the regular school
6 programming term or school day, including weekends, for children who are of school age and
7 are enrolled in a school within the district and may charge a fee therefor. However, the
8 programming provided by a school district for which a fee may be charged pursuant to this
9 section does not include any high school extracurricular activity.

10 Section 2. That § 13-28-5 be amended to read as follows:

11 13-28-5. The privileges of the public schools of any district shall be free to all persons with
12 school residence within the district until they complete the secondary school program or until
13 they reach the age of twenty-one. However, except as otherwise prohibited by law, schools may
14 charge a fee for early childhood services for any child who is under the age of compulsory



1 attendance pursuant to § 13-27-1 and is not enrolled in kindergarten or a more advanced grade.

2 Section 3. Any fees paid to a school district under the provisions of this Act shall be
3 deposited into the school district's public enterprise fund enumerated in § 13-16-2.

4 Section 4. Whereas, this Act is necessary for the support of the state government and its
5 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
6 full force and effect from and after its passage and approval.

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

580T0139

SENATE HEALTH AND HUMAN SERVICES

ENGROSSED NO. **HB 1263** - 2/15/2012

Introduced by: Representatives Deelstra, Abdallah, Hansen (Jon), Jensen, Munsterman, Nelson (Stace), and Russell and Senators Peters, Cutler, Haverly, and Novstrup (Al)

1 FOR AN ACT ENTITLED, An Act to provide for mandatory HIV testing for any person
2 convicted of prostitution or solicitation of prostitution and to provide for appropriate
3 utilization of the test results.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. Any person convicted of prostitution or solicitation of prostitution shall be
6 required, with or without that person's consent, to undergo a standard diagnostic test for human
7 immunodeficiency virus (HIV) under the testing protocol of the Department of Health.

8 Section 2. After conviction, but prior to sentencing, the court shall order the convicted
9 person to submit to an HIV test and shall issue a warrant to collect a blood sample from that
10 person. A health professional licensed or certified to do so shall take the blood samples required
11 for testing and forward them to the Department of Health. The Department of Health shall
12 initiate the test for HIV within forty-eight hours after the department receives the blood sample.
13 If the screening test required by this section indicates the presence of antibodies to HIV, the
14 court shall order the person to undergo a confirmatory test.



1 Section 3. The court shall order the convicted person to pay the cost of the testing. The cost
2 shall be treated as any other court cost or fine under chapter 23A-27. If the person tested is an
3 inmate under the jurisdiction of the Department of Corrections, the cost of testing shall be taken
4 from the person's inmate account pursuant to § 24-2-29.

5 Section 4. The final test results shall be reported to the person tested along with
6 precautionary, medical care, and counseling information. Except as provided in section 5 of this
7 Act, the results of the test shall remain confidential.

8 Section 5. Any person who may have had sexual relations with or otherwise exchanged
9 bodily fluids with the tested person may petition the court to receive the results of the HIV test.
10 The petition shall state that the petitioner believes there was an exchange of blood, semen, or
11 other bodily fluids with the tested person and shall state the factual basis for believing there was
12 such an exchange. The court shall hold a hearing at which both the petitioner and the tested
13 person may be present. If the court finds probable cause that there was an exchange of blood,
14 semen, or other bodily fluids, the court may issue an order releasing the test results to the
15 petitioner.

16 Section 6. The results of the test may not be used as evidence in any criminal prosecution.
17 All persons involved in carrying out the provisions of this Act shall act in a manner that will
18 protect the confidentiality of the petitioner and the person tested, including sealing relevant
19 court records as provided in § 23A-35B-5.